



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

MEMO ENDORSED

October 2, 2020

BY ECF

The Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Brent Borland*, 18 Cr. 487 (KPF)

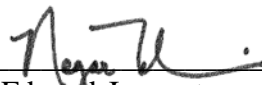
Dear Judge Failla:

The parties respectfully submit this joint letter in response to the Court's September 4, 2020 Order (Dkt. 80) directing the parties to advise the Court of the status of this case by October 5, 2020. Since the August 4, 2020 proceeding in this case, the parties have been working diligently to identify and resolve potential factual and legal disputes—including as they relate to the defendant's prior objections to the United States Probation Office's Presentence Investigation Report ("PSR")—in advance of sentencing. The parties' discussions, which are not yet complete, have been productive and have already narrowed the potential issues in dispute. For example, the parties have reached agreement on the following United States Sentencing Guidelines enhancements, which are also reflected in the PSR's calculations: (i) an addition of four levels, pursuant to U.S.S.G. § 2B1.1(b)(2)(B), because the offense resulted in substantial financial hardship to 5 or more victims; (ii) an addition of two levels, pursuant to U.S.S.G. § 2B1.1(b)(10)(B) and (C), because a substantial part of the fraudulent scheme was committed from outside the United States, and the offense involved sophisticated means; and (iii) an addition of two levels, pursuant to U.S.S.G. § 3B1.1(c), because the defendant was an organizer, leader, manager, or supervisor in criminal activity. The parties are continuing to discuss (a) relevant conduct that the Court should consider in connection with sentencing, including conduct which could increase the enhancement for the loss amount from 20 levels, pursuant to U.S.S.G. § 2B1.1(b)(1)(K), to 22 levels, pursuant to U.S.S.G. § 2B1.1(b)(1)(L), and (b) the defendant's prior objections to factual assertions in the PSR. The parties are continuing to make progress in narrowing the potential issues in dispute. Accordingly, we respectfully request permission to

provide the Court with a status update within 30 days which will identify the remaining issues in dispute, if any, and present a proposal for proceeding toward sentencing.

Respectfully submitted,

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Application GRANTED, on the understanding that no further extensions will be sought. The parties are hereby ORDERED to submit to the Court, on or before **November 4, 2020**, a further status update and proposal for proceeding toward sentencing.

Dated: October 5, 2020
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE